

Appl. No. 10/630,502
Atty. Docket No. P-138
Response: May 5, 2006
Customer No. 27752

REMARKS

Claims 1-27 are pending in the present application. Claims 1-18 have been withdrawn.

Claims 19 and 21 have been amended. The support for the amendment is found in the claims as filed and page 4, lines 29-33 of the present specification.

It is believed these changes do not involve any introduction of new matter.

Consequently, entry of these changes is believed to be in order and is respectfully requested.

The Rejections Under 35 USC § 102(b)

Claims 19-27 are rejected under 35 USC § 102(b) as being anticipated by De Boer et al. (JP 02227051). The Applicant has provided an English translation of the Canadian equivalent to this Japanese reference. The Canadian reference 2,006,132 is supplied in a supplemental IDS.

The Examiner states that De Boer et al. disclose a preparation of a low calorie food comprising polyol fatty acid polyesters supplemented with dietary fiber.

Applicants respectfully traverse this rejection based on the remarks contained herein.

Under § 102, anticipation requires that all the Claim elements appear in a single prior art document. "A Claim is anticipated only if each and every element set forth in the Claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 citing *Verdegal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2D 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... Claim." MPEP § 2131 citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2D 1913, 1920 (Fed. Cir. 1989).

The present invention requires in Claim 19 and 21 a composition comprising an amount of a polyol fatty acid polyester, wherein the polyol fatty acid polyester has a degree of esterification of at least about 70%. The De Boer et al. reference never teaches or suggests a composition comprising an amount of a polyol fatty acid polyester, wherein the polyol fatty acid polyester has a degree of esterification of at least about 70%.

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The present invention cannot be anticipated by this reference. Since De Boer et al. does not disclose each and every element of the present application, it cannot as a matter of law anticipate the present application.

Reconsideration and withdrawal of the rejection on this basis are requested.

Conclusion

In light of the remarks and amendments presented herein, Applicants respectfully submit Claims 19-27 are allowable over the cited reference. Reconsideration and allowance are respectfully requested. In the event that issues remain prior to allowance of the noted claims, then the Examiner is invited to call Applicant's undersigned attorney for further discussion.

Respectfully Submitted,

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May 23, 2006
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